IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

Second Appeal No.596/2004

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : A.P. Lavande, J.
DATED : November 24, 2006

Heard Mr. Vyawahare, Advocate for the appellant.

This appeal is directed against judgment and decree dated 23rd June 2004 passed by 1st Adhoc Additional District Judge, Gondia in Regular Civil Appeal No. 68/1999 dismissing the appeal filed by the appellant-defendant against judgment and decree dated 30.10.1999 passed by Civil Judge, Jr. Dn. Amgaon in Regular Civil Suit No.123/1994.

The respondent-plaintiff filed the above referred suit against appellant-defendant for declaration and permanent injunction. The plaintiff sought declaration

that she is the owner of the suit property as well as Haweli situated at village Sawangi. The plaintiff also sought injunction against defendant not to disturb her possession of the suit property and Haweli. The suit was contested by the defendant who claimed title to the suit property. The trial Court, upon appreciation of the evidence, oral and documentary, led by the parties, decreed the suit. The lower appellate Court dismissed the appeal filed by the defendant.

Mr. Vyawahare, learned counsel appearing for the appellant submitted that both the Courts below have erred in giving findings against defendant and the findings regarding title and possession in respect of the suit property are perverse. He, therefore, submitted that the decrees passed by both the Courts below deserve to be quashed and set aside.

Having perused the judgments passed by both the Courts below and having considered the submissions made by

learned counsel, I find no merit in this appeal. The trial Court has rightly appreciated the evidence led by the parties and has come to the conclusion that the plaintiff has proved her title to the suit property and possession in respect of the suit property. The said finding which has been confirmed by the lower appellate Court cannot be said to be perverse warranting interference in second appeal. No substantial question of law is involved in the appeal. Hence, the appeal is summarily rejected.

JUDGE

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